

REMARKS

Claims 1 – 12 have been examined. Claims 1, 3, and 10 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Pat. No. 5,735,218 (“Johansson”); and Claims 2, 4 – 9, 11, and 12 stand rejected as unpatentable under 35 U.S.C. §103(a) as unpatentable over Johansson in view of U.S. Pat. No. 5,435,282 (“Haber”).

The rejections rely on an identification in Johansson of mouthpiece 20 as corresponding to the “reservoir” recited in the claims. Independent Claim 1 has been amended to clarify the relationship of the reservoir to other recited elements, thereby precluding such a correspondence. In particular, Claim 1 now recites that both the container and reservoir are adapted to hold volumes of fluid and that the volume of fluid is transferred from the reservoir to the nebulizer (*see, e.g.*, Application, p. 5, ll. 12 – 18). Such an arrangement permits the volume of fluid delivered from the container to the reservoir to correspond to a *selected* dose size that is subsequently nebulized (*id.*, p. 4, ll. 1 – 2). This arrangement is not disclosed or suggested in Johansson. For example, mouthpiece 20 of Johansson cannot correspond to the reservoir because the mouthpiece is not adapted to hold a volume of fluid and because fluid has previously been nebulized when it is delivered to the mouthpiece (*see, e.g.*, Johansson, Col. 21, ll. 16 – 27).

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 10/043,075
Amdt. dated June 11, 2004
Reply to Office Action of March 12, 2004

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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